



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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EUROPEAN COMMITTEE ON CRIME PROBLEMS
(CDPC)

Bureau
(CDPC-BU)

Strasbourg, 10-11 September 2007

Summary Meeting Report

The following abbreviations are used in referring to the CDPC and its subordinate bodies as well as other Council of Europe Committees

CDPC	EUROPEAN COMMITTEE ON CRIME PROBLEMS
PC-OC	COMMITTEE OF EXPERTS ON THE OPERATION OF EUROPEAN CONVENTIONS ON CO-OPERATION IN CRIMINAL MATTERS
PC-CP	COUNCIL FOR PENOLOGICAL CO-OPERATION
CDAP	CONFERENCE OF DIRECTORS OF PRISON ADMINISTRATIONS
PC-S-CP	GROUP OF SPECIALISTS ON COUNTERFEIT PHARMACEUTICAL PRODUCTS
CDCJ	EUROPEAN COMMITTEE ON LEGAL CO-OPERATION
CJ-S-VICT	GROUP OF SPECIALISTS ON REMEDIES FOR CRIME VICTIMS
CDDH	STEERING COMMITTEE FOR HUMAN RIGHTS
EG-TFV	COUNCIL OF EUROPE TASK FORCE TO COMBAT VIOLENCE AGAINST WOMEN, INCLUDING DOMESTIC VIOLENCE
PACE	PARLIAMENTARY ASSEMBLY OF THE COUNCIL OF EUROPE

BRIEF FOREWORD

The CDPC Bureau invited the CDPC to note that it had, in particular:

- identified possible elements, within the competence of the CDPC, that could be included in the Resolutions to be adopted by the European Ministers of Justice at their 28th Conference (25-26 October 2007, Lanzarote, Spain);
- discussed and identified with the representatives of the Secretariat of the European Committee on Legal Co-operation (CDCJ) the issues of common interest for the CDPC and the CDCJ within the topics of the 28th Conference of the European Ministers of Justice;
- following the request of one State Party to the Convention on the Transfer of Sentenced Persons concerning the transfer of a national of this State from the sentencing State, requested the Chair of the CDPC to address a letter to the authorities of the requesting and sentencing States, inviting them to indicate their willingness to discuss the matter;
- taken note of the summary of replies to the questionnaire on the proposal concerning the drafting of a Second Additional Protocol to the Convention on the Transfer of Sentenced Persons and decided to send a reminder to those States Parties to the Convention that had not yet replied, in order to achieve the highest possible number of responses;
- taken note of the members selected for appointment to the Group of Specialists on Counterfeit Pharmaceutical Products (PC-S-CP), subject to the approval of its draft terms of reference by the Committee of Ministers;
- taken note that the implementation of the practical measures approved by the Committee of Experts on the operation of European conventions on co-operation in criminal matters (PC-OC) (setting up a network of national single points of contact on co-operation in the criminal field and establishing a database on information on national procedures on judicial co-operation in the criminal field) would have no budgetary implications and instructed the Secretariat to continue discussing with the Directorate General of Administration and Logistics (DGAL) of the Council of Europe ways to implement such measures;
- amended and approved the document concerning the working methods of the CDPC and its Bureau and instructed the Secretariat to prepare a detailed document indicating the effect of Resolution 2005(47) of the Committee of Ministers on the working methods of the CDPC;
- appointed Mr Jesper HJORTENBERG as the representative of the CDPC to the Steering Committee for Human Rights (CDDH);
- adopted draft opinions on Recommendations 1801 (2007) and 1805 (2007) of the Parliamentary Assembly of the Council of Europe (PACE) and instructed the Secretariat to transmit the text of these draft opinions to CDPC delegations for approval using the written consultation procedure (see Appendices III and IV);
- following information provided by the Secretariat concerning the work of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV), instructed the Secretariat to keep the Bureau informed about further developments on this subject.

Introduction

1. The Bureau of the CDPC held its meeting in Strasbourg from 10 to 11 September 2007 with Mr Branislav BOHACIK in the Chair.
2. The agenda and list of participants are set out in Appendices I and II.

28th Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote)

3. The Bureau took note of the information concerning the state of preparation of the 28th Conference of the European Ministers of Justice, provided by the Secretariats of the CDPC and the CDCJ.
4. The Bureau welcomed the information that the Council of Europe Convention for the Protection of Children against Sexual Exploitation and Sexual Abuse would be open for signature at the Conference.
5. It discussed the draft report of the Minister of Justice of Spain and considered which matters, raised in the report, could be of particular interest to the CDPC.
6. The Bureau identified issues of extradition in the context of procedures for asylum as one of the possible relevant topics for future work of the CDPC. This should include an examination of the impact of extradition and asylum procedures on each other and consequences of using false identification and other documents when seeking asylum by a person, whose extradition was requested. Some members of the Bureau underlined the fact that in their countries asylum procedures are sometimes intertwined with other procedures, often in the criminal field, and therefore it would be useful to examine this matter in greater detail.
7. The work of the CDPC on the position of children in the criminal justice systems would also be relevant to the topics of the Conference, in particular as regards the preparation of the draft Recommendation containing European Rules for juvenile offenders subject to community sanctions or measures or deprived of their liberty and the work of the Council for Penological Co-operation (PC-CP) on alternatives to imprisonment.
8. The Bureau took note that the Ministers will examine the issue of access to justice for children and recognised, in particular, the importance of examining the question of how child-friendly procedures in criminal matters can be further enhanced in national judicial systems.
9. The Bureau agreed that, as a follow-up to the Resolutions of the 28th Conference, guidelines on child-friendly procedures and practices should be prepared, possibly by a multidisciplinary group of specialists in co-operation with the CDCJ. The Bureau instructed the Secretariat to keep the CDPC informed about the Resolutions adopted at the Conference and to include the issue of the follow-up to the Conference on the agenda of the next CDPC Bureau meeting.

Article 23 of the Convention on the Transfer of Sentenced Persons (CETS N° 112)

10. The Bureau took note of the request of the authorities of one State Party to the European Convention on the Transfer of Sentences Persons made (according to Article 23 of the Convention) by a letter addressed to the Council of Europe Secretariat and concerning the case of one of its nationals for whom they requested in the past years the transfer from the sentencing State. The Bureau considered the variety of possible solutions to this case and agreed that the Chair of the CDPC would address a letter to the authorities of the requesting and sentencing States, inviting them to indicate their willingness to discuss the matter in the margins of the forthcoming PC-OC plenary meeting on 21-23 November 2007.

Information provided by the Secretariat

- a. Group of specialists on counterfeit pharmaceutical products (PC-S-CP): proposed candidates.
11. The Bureau took note of the candidates presented by CDPC delegations and by the Directorate General for Social Cohesion of the Council of Europe (DG III) for possible appointment to the Group of Specialists on Counterfeit Pharmaceutical Products. It instructed the Secretariat to examine these nominations and decide on the final composition of the Group, in consultation with the Chair of the CDPC, taking into account in particular the specific professional qualifications of the candidates, knowledge of one of the official languages of the Council of Europe, geographical representation and gender balance.

12. It took note of the fact that the draft Terms of Reference of the PC-S-CP had not been approved by the Committee of Ministers and instructed the Secretariat to keep the CDPC Bureau informed about further developments regarding this activity.
 - b. Follow-up to the High Level conference of Ministries of Justice and of the Interior on “improving European co-operation in the criminal justice field”: replies to the questionnaire relating to the proposal to draft a Second Additional Protocol to the Convention on the Transfer of Sentenced Persons (ETS No. 112).
13. The Bureau took note of the replies received from 27 Council of Europe member and 2 non-member States Parties to the Convention ETS No. 112 as well as the summary of these replies, prepared by the Secretariat. It noted the absence of replies of the majority of the non-EU member States, as well as diverging opinions as to the drafting of a Second Additional Protocol between those States Parties that had replied.
14. The Bureau stressed that a Second Additional Protocol, if prepared, would be particularly useful in regulating the transfer of sentenced persons between EU member and non-member States, given the fact that within the European Union this question is dealt with by relevant legislation. In this context, reference was made to the draft Framework Decision on the application of the principle of mutual recognition of judgments in criminal matters imposing custodial sentences or measures involving the deprivation of liberty for the purpose of their enforcement in the European Union.
15. To enable a more meaningful discussion to take place during the PC-OC the Bureau instructed the Secretariat to send a reminder to those Parties to the Convention that had not replied to the questionnaire, in order to achieve the highest possible number of responses, in particular from non-EU member States.
 - c. Practical measures to improve the efficiency of international co-operation in criminal matters: budgetary implications.
16. Following a request made by the CDPC at its last plenary meeting (18-22 June 2007), the Secretariat invited the Secretariat of the DGAL to provide detailed information about possible budgetary implications for implementing the foreseen practical measures to improve the efficiency of international co-operation in criminal matters.
17. The Bureau took note of the information provided by the Secretariat of the DGAL concerning technical needs and their budgetary implications for implementing practical measures to improve efficiency of international co-operation in criminal matters (setting up a network of national single points of contact on co-operation in the criminal field and establishing a database on information on national procedures on judicial co-operation in the criminal field).
18. The Bureau noted in particular that it would be possible to set up a database on the already existing website of transnational criminal justice, without budgetary implications. It instructed the Secretariat to continue examining the issue with the DGAL with a view to identifying specific ways for implementing the practical measures referred to above, in the light of the discussions at the next PC-OC plenary meeting on 21-23 November 2007.

Working methods of the CDPC and its Bureau

19. The Bureau discussed the amendments, prepared by the Secretariat, to the document concerning the working methods of the CDPC and its Bureau, in the light of the comments made at the last CDPC plenary meeting on 18-22 June 2007.
20. It took note of the fact that further changes might be necessary in order to bring the document concerning the working methods of the CDPC and its Bureau in conformity with the relevant Committee of Ministers Resolutions.

21. The Bureau instructed the Secretariat to prepare, for the next Bureau meeting, a detailed comparative information document, analysing the changes brought about by Resolution (2005)47 in comparison to Resolution (76)3 on Committee structures, terms of reference and working methods. The Secretariat was also instructed to propose corresponding amendments to the document concerning the working methods of the CDPC to be examined at the next Bureau meeting.

Appointment of CDPC representatives to the Steering Committee on Human Rights (CDDH) and the Group of Specialists on remedies for crime victims (CJ-S-VICT)

22. The Bureau appointed Mr Jesper HJORTENBERG as the representative of the CDPC to the the Steering Committee on Human Rights (CDDH).
23. As regards the CDPC representative to the Group of specialists on remedies for crime victims (CJ-S-VICT) the Bureau entrusted the Secretariat to ensure the presence of the CDPC at the remaining meeting by making an arrangement with one of the CDPC Bureau members, in consultation with the Chair.

Request for possible comments by the Parliamentary Assembly of the Council of Europe (PACE)

24. The CDPC Bureau examined and approved draft opinions on Recommendations 1801(2007) “on secret detentions and illegal transfers of detainees involving Council of Europe member states: second report” and 1805(2007) “on blasphemy, religious insults and hate speech against persons on grounds of their religion” of the Parliamentary Assembly of the Council of Europe (Appendices III and IV).
25. The Bureau instructed the Secretariat to transmit the text of these draft opinions to the CDPC delegations for approval using the written consultation procedure, taking into account the need for the CDPC to provide its comments to the Committee of Ministers on the above Recommendations by 31 October 2007.

Any other business

26. The Bureau was informed about the progress of the work of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV). The Bureau noted that the Feasibility study for a convention against domestic violence, prepared by Ms Renée Römkens and Rianne Letschert from Tilburg University (Netherlands) upon request of the CDPC and discussed by the CDPC at its last plenary meeting in June 2007, will also be submitted to the Task Force and to the Steering Committee for Equality between Women and Men (CDEG) for an opinion. The Bureau instructed the Secretariat to keep the Bureau and the CDPC informed about further developments on this subject.

Dates of the next meeting

27. The CDPC Bureau agreed to fix the dates of its next meeting during their meeting on 24 October 2007 just before the 28th Conference of the European Ministers of Justice (25-26 October 2007).

APPENDIX I

Agenda

1. **Opening of the meeting**
2. **Adoption of the draft agenda**
Working documents
 Draft agenda CDPC-BU (2007) OJ 3
 Report of the 56th plenary meeting of the CDPC CDPC (2007) 24
3. **28th Conference of the European Ministers of Justice (25-26 October 2007, Lanzarote)**
Working documents
 Report of the Minister of Justice of Spain MJU-28 (2007) 01
 Report of the Secretary General of the Council of Europe MJU-28 (2007) 02
4. **Article 23 of the Convention on the Transfer of Sentenced Persons (CETS N°112)**
Working documents
 Convention on the Transfer of Sentenced Persons CETS N°112
 Recommendation R (99) 20 concerning the friendly settlement of any difficulty that may arise out of the application of the Council of Europe conventions in the penal field R (99) 20
 Information Note - Friendly settlement of disputes relating to the interpretation or application of the Council of Europe conventions in the criminal-law field PC-OC (2005) 02
5. **Information provided by the Secretariat**
 - a. Pharmaceutical crime: candidates for the PC-S-CP
 - b. Follow-up to the High Level Conference of Ministries of Justice and of the Interior on “improving European co-operation in the criminal justice field”: replies to the questionnaire relating to the proposal to draft a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons (CETS 112)
Working documents
 Summary of replies to the questionnaire PC-OC (2007) 08
 Replies to the questionnaire on the proposal concerning the drafting of a Second Additional Protocol to the European Convention on the Transfer of Sentenced Persons PC-OC (2007) 07 rev
 - c. Practical measures to improve the efficiency of international co-operation in criminal matters: budgetary implications
Working document
 Draft proposals of the PC-OC concerning practical measures to improve operation of relevant conventions PC-OC (2007) 05
6. **Completion of the document: Working methods of the CDPC and its Bureau**
Working document
 Working methods of the CDPC and its Bureau CDPC (2007) 02 rev3
7. **Appointment of CDPC representatives to the Steering Committee on Human Rights (CDDH) and the Group of Specialists on remedies for crime victims (CJ-S-VICT)**

Working document

Report of the 56th plenary meeting of the CDPC (see paragraph 7, page 5)

CDPC (2007) 24

8. Recommendations of the Parliamentary Assembly of the Council of Europe (PACE) and the Congress of Local and Regional Authorities of the Council of Europe for information and possible comments by the CDPC

Working documents

Recommendation 1801 (2007) on Secret detentions and illegal transfers of detainees involving Council of Europe member states: second report PACE Rec 1801 (2007)

Recommendation 1803 (2007) on the Prosecution of offences falling within the jurisdiction of the International Criminal Tribunal for the former Yugoslavia (ICTY) PACE Rec 1803 (2007)

Recommendation 1805 (2007) on Blasphemy, religious insults and hate speech against persons on grounds of their religion PACE Rec 1805 (2007)

Recommendation 216 (2007) on Community policing : local and regional authorities guaranteeing a new partnership Rec 216 (2007)

9. Any other business

10. Dates of the next meeting

APPENDIX II

LIST OF PARTICIPANTS / LISTE DE PARTICIPANTS

AUSTRIA / AUTRICHE

Mr Roland MIKLAU, Head of Mission, TIRANA, Albania Apologised / Excusé

DENMARK / DANEMARK

Mr Jesper HJORTENBERG, Deputy Director of Public Prosecution, Rigsadvokaten , COPENHAGEN

FRANCE

M. Eric RUELLE, Chargé de Mission pour les négociations pénales internationales, Ministère de la Justice, PARIS **Deputy Chair of the CDPC / Vice-Président du CDPC**

GERMANY / ALLEMAGNE

Mr Hans-Holger HERRNFELD, Regierungsdirektor, Head of International Criminal Law and European and Multilateral Criminal Law Cooperation Division, Bundesministerium der Justiz, BERLIN

GREECE / GRECE

Ms Maria GAVOUNELLI, Lecturer in International Law, Faculty of Law, University of Athens, ATHENS
Apologised / Excusé

ROMANIA / ROUMANIE

M. Florian Razvan RADU, Direction des Relations Internationales et des Droits de l'Homme, Ministère de la Justice, BUCAREST

RUSSIAN FEDERATION / FEDERATION DE RUSSIE

Mr Alexander ZMEYEVSKIY, Former Director, Department on New Challenges and Threats, Ministry of Foreign Affairs, MOSCOW Apologised / Excusé

SLOVAK REPUBLIC / REPUBLIQUE SLOVAQUE

Mr Branislav BOHÁČIK, Director – Division for Judicial Co-operation in Criminal Matters, Ministry of Justice, BRATISLAVA **Chair of the CDPC / Président du CDPC**

SLOVENIA / SLOVENIE

Ms Andreja LANG, Head of the Department for Criminal Legislation, Directorate for the Preparation of Legislation, Ministry of Justice, LJUBLJANA

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EUROPEAN COMMITTEE ON LEGAL CO-OPERATION / COMITÉ EUROPÉEN DE COOPERATION JURIDIQUE (CDCJ)

Mr Pekka NURMI, Director General, Department of Legislation, Ministry of Justice, HELSINKI
Chair of the CDCJ / Président du CDCJ Apologised / Excusé

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SECRETARIAT OF THE COUNCIL OF EUROPE
SECRETARIAT DU CONSEIL DE L'EUROPE

Directorate General of Human Rights and Legal Affairs / Direction Générale des droits de l'Homme et des affaires juridiques (DG-HL)

Law Reform Department / Service des réformes législatives

Ms Margaret KILLERBY, Head of the Law Reform Department / Chef du Service des réformes législatives

M. Carlo CHIAROMONTE, Head of the Criminal Law Division *ad interim* / Chef de la Division du droit pénale *ad interim* **Secretary to the CDPC / Secrétaire du CDPC**

Mr David DOLIDZE, Administrator / Administrateur
Deputy Secretary to the CDPC / Secrétaire adjoint au CDPC

Ms Iliana TANEVA, Head of the Offenders and Victims of Crime Unit / Chef d'Unité Délinquants et Victimes du crime

Ms Claire ROBINS, Assistant / Assistante

Public and Private Law Unit / Unité du droit public et privé

Ms Regina JENS DOTIR, Head of the Public and Private Law Unit / Chef d'Unité du droit public et privé
Secretary to the CDCJ / Secrétaire au CDCJ

Mme Sophie KWASNY, Principal Administrative Assistant / Assistante administrative principale
Deputy Secretary to the CDCJ / Secrétaire adjoint au CDCJ

Directorate General of Administration and Logistics / Direction Générale de l'Administration et de la Logistique (DGAL)

M. Marc ULRICH, chef de la division Services Métier, Service des Technologies de l'Information / Head of the Business oriented services division, Information Technology Department

Mme Monique BECRET, chef de la section Liaison Accompagnement Métier, Service des Technologies de l'Information / Head of Business Support, Information Technology Department

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INTERPRETERS / INTERPRETES

Mme Sylvie BOUX, Team leader / Chef d'équipe

Mme Corinne McGEORGE

M. Olivier OBRECHT

APPENDIX III

OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) ON THE PARLIAMENTARY ASSEMBLY RECOMMENDATION 1801 (2007) ON “SECRET DETENTIONS AND ILLEGAL TRANSFERS OF DETAINEES INVOLVING COUNCIL OF EUROPE MEMBER STATES: SECOND REPORT”

1. Following the adoption by the Parliamentary Assembly of Recommendation 1801 (2007) on the “Secret detentions and illegal transfers of detainees involving Council of Europe member States: second report”, the Committee of Ministers decided to communicate it to the European Committee on Crime Problems (CDPC), for information and possible comments. The CDPC examined the above Recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments:
2. The CDPC recalled the International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly of the United Nations¹ on 20 December 2006 and opened for signature on 6 February 2007, entry into force of which would significantly contribute to combating secret detention practices.
3. The CDPC underlined the fundamental importance for any society based on democratic values and human rights that any responsibility of government authorities in relation to allegations of grave human rights violations be thoroughly investigated, those responsible brought to justice and the presumed victims compensated.
4. The CDPC confirmed its readiness to contribute, within its fields of competence, to any future work that the Committee of Ministers might decide to undertake in this field.

¹ The initial signatories were France, Albania, Algeria, Argentina, Austria, Azerbaijan, Brazil, Burkina Faso, Burundi, Congo, Croatia, Ghana, Guatemala, Haiti, Japan, Lithuania, Maldives, Moldavia, Morocco, Uganda, Senegal, Serbia, Sierra Leone, Macedonia, Chad, Tunisia, Vanuatu, Belgium, Bolivia, Bosnia Herzegovina, Cameroon, Cap Verde, Chilli, Comoros, Costa Rica, Cuba, Cyprus, Finland, Grenada, Honduras, India, Kenya, Lebanon, Luxembourg, Madagascar, Mali, Malta, Mexico, Monaco, Mongolia, Montenegro, Niger, Paraguay, Portugal, Samoa, Sweden and Uruguay. The Republic of Ireland signed the Convention on 29 March 2007. Armenia signed on 10 April 2007, Ecuador on 24 May 2007 and Italy on 3 July 2007. The Convention will enter into force when ratified by 20 parties. So far, no country has ratified the Convention.

APPENDIX IV

OPINION OF THE EUROPEAN COMMITTEE ON CRIME PROBLEMS (CDPC) ON PARLIAMENTARY ASSEMBLY RECOMMENDATION 1805 (2007) ON “BLASPHEMY, RELIGIOUS INSULTS AND HATE SPEECH AGAINST PERSONS ON GROUNDS OF THEIR RELIGION”

1. Following the adoption by the Parliamentary Assembly of Recommendation 1805 (2007) on the “Blasphemy, religious insults and hate speech against persons on grounds of their religion”, the Committee of Ministers decided to communicate it to the European Committee on Crime Problems (CDPC), for information and possible comments. The CDPC examined the above Recommendation and decided to contribute to the response of the Committee of Ministers by providing the following comments:
2. The CDPC agreed upon the paramount importance for any democratic society of the freedom of expression and the freedom of thought, conscience and religion, enshrined in the European Convention for the Protection of Human Rights and Fundamental Freedoms, as underlined by the Parliamentary Assembly.
3. Taking into account that the degree of protection of these freedoms is constantly developing notably through the enriching interpretation by the European Court of Human Rights in its case law, member States should follow closely this development and progressively reflect it in their national law and practice.
4. Regarding paragraphs 17.2 and 17.4 of the Recommendation, the CDPC was of the view that the responsibility for implementing the recommendations contained in paragraph 17.2 would not be limited to national ministries of justice only, but would also involve other competent national bodies.
5. Similarly, elaboration of practical guidelines for ensuring that national law and practice allow for open debates on matters relating to religion, penalise hate speech and prohibit acts disturbing public order would require the collaboration of relevant competent Steering Committees of the Council of Europe, in particular the Steering Committee on Human Rights (CDDH).
6. With the above in mind, the CDPC expressed its readiness to contribute, within its fields of competence, to the elaboration of such practical guidelines, if decided by the Committee of Ministers.